

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

Master File No. 01-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

State of California, *ex rel.* Ven-A-Care v.

Abbott Laboratories, et al.

CASE #: 1:03-cv-11226-PBS

STATE OF CALIFORNIA'S AND RELATOR'S STATUS REPORT JANUARY 4, 2005

The undersigned counsel, on behalf of plaintiffs STATE OF CALIFORNIA (“CALIFORNIA”) and Relator, VEN-A-CARE OF THE FLORIDA KEYS, INC. (“VEN-A-CARE” or “RELATOR”), hereby submit the attached Status Report to the Court in accordance with the Court’s June 17, 2004 Procedural Order.

Respectfully submitted,

BILL LOCKYER

Attorney General for the State of California

Dated: January 4, 2005

By: /s/ Brian V. Frankel

BRIAN V. FRANKEL

CA State Bar No.: 116802

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Dated: January 4, 2005

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**Attorneys for Relator,
Ven-A-Care of the Florida Keys, Inc.**

MDL 1456 Status Report
State of California, *ex rel.* Ven-A-Care v. Abbott Laboratories, *et al.*
Case No.: 1:03-cv-11226-PBS

Motion to Remand Case to State Court:

Notice of withdrawal of such motion filed 9/29/04.

Motion to Dismiss Medicaid Rebate Fraud Claims Without Prejudice:

Notice of withdrawal of such motion filed 9/29/04.

Complaint-in-Intervention:

Plaintiffs intend to file an amended Complaint-in-Intervention, pursuant to the Federal Rules of Civil Procedure, which will supersede the original Complaint-in-Intervention filed against defendants ABBOTT LABORATORIES, INC., WYETH INC., and WYETH PHARMACEUTICALS, INC. in California State Court on January 7, 2003.

Anticipated Filings:

The Attorney General of California will file additional motions, under seal, as are necessary to fully and effectively prosecute this case under the California False Claims Act (Cal. Gov't. Code §§ 12650, *et seq.*). In addition, plaintiffs will request a Status Conference and the entry of a Case Management Order by a motion to be filed soon.

Tutorial:

California and Ven-A-Care had requested that the Court permit their participation in the planned December tutorial. On November 10, 2004, Judge Saris issued an order stating that "[t]he December tutorial was suggested in the context of the pending motion for class certification." The Court indicated that it would welcome a tutorial when it becomes relevant to a

pending motion. It is anticipated that California and Ven-A-Care will be requesting that the Court authorize a tutorial in the California case at a later date.

CERTIFICATE OF SERVICE

I, Brian V. Frankel, hereby certify that on January 4, 2005, I caused a true and correct copy of the foregoing, **STATE OF CALIFORNIA'S AND RELATOR'S STATUS REPORT JANUARY 4, 2005**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to Verilaw Technologies for posting and notification to all parties.

Dated: January 4, 2005

/s/ Brian V. Frankel
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